

BELLSOUTH

EX PARTE OR LATE FILED

Kathleen B. Levitz
Vice President-Federal Regulatory

February 5, 1998

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EX PARTE

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

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FEB - 5 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

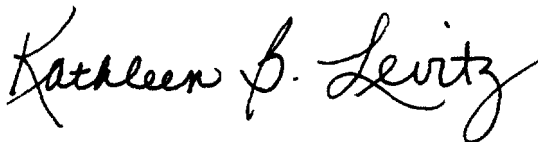
Re: CC Docket No. 95-116

Dear Ms. Salas:

Yesterday in a late afternoon telephone conversation with Kevin Martin, legal advisor to Commissioner Harold Furchtgott-Roth I discussed BellSouth's position on issues related to the recovery of costs incurred to implement local number portability. In that conversation I reiterated points made in an earlier conversation with Patrick Donovan of the Commission's Common Carrier Bureau which was the subject of a notice filed with you on February 3, 1998. Attached you will find a copy of that earlier notice.

Two copies of this notice are filed in accordance with Section 1.1206(a) of the Commission's rules. Because of the lateness of my conversation yesterday with Mr. Martin, I am filing this notification today. Please associate this notification with the proceeding identified above.

Sincerely,



Kathleen B. Levitz
Vice President - Federal Regulatory

Attachment:

cc: Kevin Martin

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BELLSOUTH

DOCKET FILE COPY (DUPLICATE)

Kathleen B. Levitz
Vice President-Federal Regulatory

February 3, 1998

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EX PARTE

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

STAMP and RETURN

Re: CC Docket No. 95-116

Dear Ms. Salas:

Yesterday in a late afternoon telephone conversation with Patrick Donovan, deputy chief of the Common Carrier Bureau's Competitive Pricing Division, I discussed BellSouth's position on issues related to the recovery of costs incurred to implement local number portability (LNP). In particular I presented BellSouth's reactions to a proposal Mr. Donovan presented in a telephone call to me on Friday evening, January 30, 1998.

That proposal for recovery of costs associated with implementation of LNP would treat all Type 1 and Type 2 costs as interstate costs. Type 1 costs would be pooled, while each carrier would have to recover its own Type 2 costs. The definition of Type 2 costs would most likely be left to the tariff review process.

Under the proposal Mr. Donovan had described, carriers other than incumbent local exchange carriers (ILECs) could recover their costs through whatever means they chose. ILECs, however, would be permitted to recover their costs only through flat charges levied on end users. Prior to January 1, 2001, ILECs could levy such charges on business customers only in those MSAs for which local number portability had become available in order to recover only the costs of providing LNP to those customers. Similar flat charges could be imposed on residential customers in those MSA only if there was sufficient local service competition for such customers. One measure for determining sufficiency might be the percentage (e.g. 5%) of residential numbers ported in that MSA. Prior to January 1, 2001, an ILEC would be allowed to include in

its flat charge to business customers in those MSAs an 11.25% return on those costs for which recovery was deferred. After January 1, 2001, an ILEC would be permitted to recover its LNP implementation costs from all its customers.

Section 251(e)(2) requires that costs must be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission. In yesterday's telephone conversation, I explained that for several reasons, BellSouth finds the proposal described above does not meet this requirement. For example, under the proposal Mr. Donovan presented carriers with no Type 2 costs would not contribute to their recovery. It is unclear whether under the proposal these carriers would contribute to Type 1 cost pool either. Thus it is unclear whether the proposal would lead to all carriers bearing the costs of number portability.

The proposal also fails to satisfy Section 251(e)(2) for other reasons. If Type 2 costs are not pooled, all telecommunications carriers would not bear the costs of number portability in a competitively neutral way. As already noted, carriers with no Type 2 costs would contribute nothing to the recovery of those costs. Among carriers with Type 2 costs, ILECs' share of those costs would be disproportionately large. The proposal would also limit both the means ILECs could use to recover their LNP implementation costs and the customers within an MSA from whom they could seek to recover those costs. It would also delay the timing of that recovery only for ILECs. All these facets of the proposal would place ILECs at a disadvantage vis-à-vis their competitors who would confront no such limitations.

BellSouth interprets Section 251(e)(2) of the Communications Act to require, at a minimum, that ILECs, like their competitors, be given the opportunity to seek recovery from all customers within an MSA. Once number portability becomes available in a MSA, ILECs, like their competitors, should have the flexibility to decide how they will try to recover those costs.

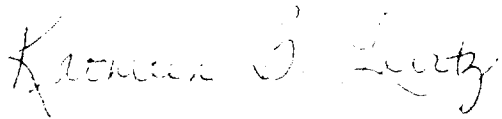
BellSouth supports the proposal to recover LNP cost solely from its interstate operations and to pool Type 1 costs. It is concerned, however, that the allocation factor used to define a carrier's contribution to the Type 1 cost pool be competitively neutral. For this reason, BellSouth would support use of equivalent access lines, as that concept is defined in the SBC filings, or of retail revenue to allocate costs. BellSouth believes that allocating costs among all telecommunications carriers based on their relative number of access lines would not be competitively neutral.

BellSouth also believes that the record is adequately developed to enable the Commission to define Type 2 costs and, for this reason, that the Commission should not use the tariff review process to define those costs.

An alternative to the proposal described above, BellSouth would suggest that recovery of all LNP implementation costs be deferred until January 1, 2000, at which time a carrier could bill all its customers to recover its costs of implementing LNP.

Because of the late hour of my conversation with Mr. Donovan yesterday, I am filing this notice of that conversation with you today. Please include a copy of this. Two copies of this notice are filed in accordance with Section 1.1206(a) of the Commission's rules.

Sincerely,

A handwritten signature in cursive script, reading "Kathleen B. Levitz".

Kathleen B. Levitz
Vice President - Federal Regulatory Affairs

cc: Patrick Donovan